

Remarks

The Examiner has issued an Advisory Action and did not enter Applicant's first After Final amendment submitted on July 1, 2003. *See*, Paper No. 18. Therefore, Applicants submit herein a Second Amendment cancelling all previously rejected or canceled claims (*i.e.*, claims 1-27, 36-37, and 43-61). Applicants acknowledge and thank the Examiner for allowance of claims 28-35. *See*, Paper No. 18. Applicants have also cancelled claims 38-42 (and the corresponding unentered claims 62-67) and re-presented these in independent form (new claims 68-73) as suggested by the Examiner. *See*, Paper No. 16, page 2, item 6. Accordingly, the subject matter of claims 38-42 has been incorporated into independent Markush-type claim 68. Upon entry of the present amendment, claims 28-35 and 68-73 will be pending. No new matter has been added.

I. Amendments to the Specification

Applicants have also discovered an obvious typographical error in the specification. Accordingly, the specification has been amended with respect to correction of the NaCl and trisodium citrate concentrations for 5xSSC disclosed on page 12, lines 28-29 of the specification. An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of the error in the specification, but also the appropriate correction. *See*, M.P.E.P. § 2163.07. Here, the recognition of the typographical errors, along with the correction of the errors in the specification and claims and in the ingredient amounts listed for 5x SSC is obvious to one skilled in the art; therefore, the correction does not constitute new matter.

In particular, 5x SSC is a component of many hybridization solutions and is well known in the art. (*See*, e.g., Exhibit A, CURRENT PROTOCOLS IN MOLECULAR BIOLOGY, John Wiley and Sons, N.Y., at page 2.10.7 (1989)). SSC is normally made as a 20x stock solution, and then diluted accordingly for a particular use. Exhibit A also shows that a 20x SSC stock solution contains 3 M NaCl and 0.3 M trisodium citrate. (*See*, e.g., Exhibit A, CURRENT PROTOCOLS, at page A.2.5.) To make a 5x SSC solution, the 20x solution must be diluted by a factor of four. Therefore, a 5x SSC solution contains 750 mM NaCl ($3\text{ M} \div 4 = 750\text{ mM}$) and 75 mM trisodium citrate ($0.3\text{ M} \div 4 = 75\text{ mM}$). One skilled in the art would have immediately recognized that the amounts of ingredients

listed in the specification for a 5x SSC solution was incorrect. Rather than describing a 5x SSC solution, made up of 750 mM NaCl and 75 mM trisodium citrate, the specification inaccurately listed the ingredient amounts for a 1x solution. The skilled artisan, in recognizing the typographical error, could have easily adjusted the amount of ingredients described in the specification to properly make a 5x SSC solution.

Therefore, because no new matter will be added to the specification if these typographical errors are corrected, Applicants respectfully request that the amendments to the specification to recite the correct concentrations of sodium chloride and sodium citrate in 5x SSC be entered.

II. Claims 38-42

Claims 38-42 were objected to as being dependent upon a rejected base claim, "but would be allowable if rewritten in independent form..." See, Paper No. 16, page 2, item 6.

To comply with the Examiner's instruction, Applicants have herein cancelled claims 38-42 and rewritten the subject matter encompassed therein in independent claim 68 and dependent claims 69-73. Accordingly, the independent Markush-type claim 68 encompasses the subject matter of previously pending claims 38-42; dependent claim 69 corresponds to previously pending claim 38; claim 70 corresponds to 39; claim 71 corresponds to 40; claim 72 corresponds to 41; and, claim 73 corresponds to 42. No new matter has been added by the amendments made herein. Accordingly, Applicants respectfully request entry of the above amendments and allowance of claims 68-73.

Conclusion

Applicants believe that this application is in condition for allowance. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicants would expedite the allowance of this application.

Applicants believe that there are no fees due in connection with the filing of this paper. However, should a fee be due, please charge the fees to our Deposit Account No. 08-

App. No. 09/170,042

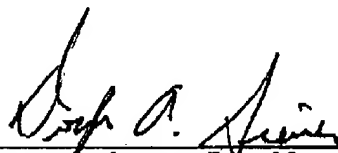
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3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the appropriate fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: August 29, 2003


Doyle A. Siever (Reg. No. 47,088)
Agent for Applicants

Human Genome Sciences, Inc.
9410 Key West Avenue
Rockville, MD 20850
Telephone: (240) 314-4400 ext.3595

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